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10/648,686	08/25/2003	Sharidan Lorraine Stiles	STILES.ICICP1	3777

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EXAMINER

ASHLEY, BOYER DOLINGER

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/648,686

Applicant(s)

STILES, SHARIDAN LORRAINE

Examiner

Boyer D. Ashley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received. .

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 6/14/04; 11/20/03.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Priority*

1. Acknowledgment is made of applicant's claim for domestic priority under 35 U.S.C. 120.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 4 fails to further limit claim 1, that is, it is not clear how the control angle can be both less than and greater than ninety degrees.

### *Double Patenting*

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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5. Claims 9, 14, 16, 17, 20 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 10, 13-21 of copending Application No. 10/219,095. Although the conflicting claims are not identical, they are not patentably distinct from each other because they differ only in the claim terminology used but encompass the same subject matter, that is, the claims 1, 7, 10, and 13-21 of application '095 anticipates that claim language of claims 9, 14, 16, 17, 20 of the instant application.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claim 16 is rejected under 35 U.S.C. 102(b) as being anticipated by Hollinger, U.S. Design Patent 259,743.

Hollinger discloses the same invention as claimed including the step of, e.g., forming razor head with an integral razor blade as shown in Figure 5; forming a handle for mounting the head as shown in Figure 1; forming an upper longitudinal portion (3) having a first end attached to the handle and a second end displaced from the handle as shown in Figure 1; and attaching the razor head to the second end of the upper longitudinal portion as shown in Figure 1.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-2, and 4-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent 259,743 to Hollinger in view of Carreker, U.S. Patent 4,461,078.

Hollinger discloses the same invention as claimed including, e.g., a handle portion (H1) having a lower (1), middle (2), upper (3) longitudinal portions; and a head portion (H2) having a razor blade (see claim) attached to said upper longitudinal portion (see Figure 1); wherein the lower longitudinal portion extends along a first axis (A1), the middle longitudinal portion extends along a second axis (A2); and the upper longitudinal portion extends along a third axis (A3). The first and third axes form a control angle (C) that is less than ninety degrees (see the Figure below).

Hollinger lacks the razor blade having a width of less than or equal to one inch; however, Carreker discloses that it is old and well known in the art to use razor blades of reduced size such as less than one inch for the purpose of providing an improved razor with an enhanced cutting ability of specific small areas of the body. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a reduced razor blade size of less than one inch with the safety razor of Hollinger in order to provide an enhanced cutting razor for specific grooming.

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As to claim 2, Figure 1 of Hollinger shows the guide track for a typical replacement head portion of the cartridge type. However, in the alternative, Carreker discloses that it is old and well known in the art to use replaceable razor blades heads for the purpose of providing an economically razor blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made have replaceable head portions with the modified device of Hollinger in order to provide an economical razor blade.

As to claim 4, the modified device of Hollinger discloses the invention substantially as claimed except for the control angle being greater than ninety degrees. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a control angle of greater than ninety degrees for the purpose of providing a safety razor with an improved cutting angle for specific areas of the user, because since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Moreover, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Furthermore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a control angle of greater than ninety degrees because Applicant has not disclosed that the control angle of greater than ninety degrees provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either control angle because

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they both perform the function of facilitating the shaving operation. Therefore, it would have been an obvious matter of design choice to modify the modified device of Hollinger to obtain the invention as specified in claim 4. It should be noted that applicant's specification on page 7 clearly indicates that any angle could be used; therefore, there is no criticality to the specified angle.

As to claim 5, Figure 1 of Hollinger clearly shows the upper longitudinal portion being greater than the width of the blade.

As to claim 6, the modified device of Hollinger discloses the invention substantially as claimed except for the use of multiple blades; however, Carreker discloses that it is old and well known in the art to use multiple blades on the head portions of safety razors for the purpose of providing an enhanced shave. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use multiple blades with the modified device of Hollinger in order to provided an enhanced shave.

As to claim 7, the modified device of Hollinger discloses the use of the lower portion having a first curved shape and the middle portion having a second curved shape as shown in Figure 1 of Hollinger. It should be noted that the phrase "wherein said first ...razor" does not serve to distinguish the claimed invention from the prior art because it is a recitation of intended use not defining any specific structure.

As to claim 8, the modified device of Hollinger includes a guide surface, such as the surface surrounding the blade area (the blade) as shown in Figure 5, wherein the glide surface is larger than the blade area.

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10. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollinger in view of Carreker as applied to claim 1 above, and further in view of Branchinelli et al., U.S. patent 6,052,905.

The modified device of Hollinger discloses the invention substantially as claimed except for the head portion being pivotally mounted on the handle portion; however, Branchinelli discloses that it is old and well known in the art to razor heads that are pivotally mounted on the handles for the purpose of facilitating the shaving of varying shapes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the head portion of the modified device of Hollinger to pivot relative to the handle in order to provide enhanced shaving over varying shapes.

11. Claims 9-10 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent 259,743 to Hollinger in view of Andrews, U.S. Patent 6,145,201, or Heinrich, U.S. Patent 2,139,680.

Hollinger discloses the same invention as claimed including, e.g., an ergonomically shaped handle portion (H1) having a lower (1), middle (2), upper (3) longitudinal portions; and a head portion (H2) having a razor blade (see claim) attached to said upper longitudinal portion (see Figure 1).

It should be noted that the phrase "wherein said handle portion is adapted to ... shaving" does not serve to distinguish the claimed invention from the prior art as it is merely intended use not defining any specific structure.



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Hollinger lacks the razor blade having a width of less than 1/2 inch; however, Andrews (.4 inches) and Heinrich (.375 inches) both disclose that it is old and well known in the art to use razor blades of reduced size such less than 1/2 inch for the purpose of providing an improved razor with an enhanced cutting ability of specific small areas of the body. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a reduced razor blade size of less than one inch with the safety razor of Hollinger in order to provide an enhanced cutting razor for specific grooming.

As to claim 10, the modified device of Hollinger discloses the use of a lower longitudinal portion extends along a first curved shape (A1), the middle longitudinal portion extends along a second curved shape (A2); and the upper longitudinal portion extends along a third curved shape (A3). The first and second portions define a waist portion therebetween (the section between the first and second portions).

As to claim 14, Figure 1 of Hollinger clearly shows the upper longitudinal portion being greater than the width of the blade.

12. Claims 11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hollinger in view of Andrews or Heinrich as applied to claim 9 above, and further in view of Carreker.

The modified device of Hollinger in Figure 1 shows the guide track for a typical replacement head portion of the cartridge type. However, in the alternative, Carreker discloses that it is old and well known in the art to use replaceable razor blades heads for the purpose of providing an economically razor blade. Therefore, it would have been

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obvious to one of ordinary skill in the art at the time of the invention was made have replaceable head portions with the modified device of Hollinger in order to provide an economical razor blade.

As to claim 15, the modified device of Hollinger discloses the invention substantially as claimed except for the use of multiple blades; however, Carreker discloses that it is old and well known in the art to use multiple blades on the head portions of safety razors for the purpose of providing an enhanced shave. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use multiple blades with the modified device of Hollinger in order to provided an enhanced shave.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollinger in view of Andrews or Heinrich as applied to claim 9 above, and further in view of Branchinelli et al., U.S. patent 6,052,905.

The modified device of Hollinger discloses the invention substantially as claimed except for the head portion being pivotally mounted on the handle portion; however, Branchinelli discloses that it is old and well known in the art to razor heads that are pivotally mounted on the handles for the purpose of facilitating the shaving of varying shapes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to have the head portion of the modified device of Hollinger to pivot relative to the handle in order to provide enhanced shaving over varying shapes.

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14. Claims 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Design Patent 259,743 to Hollinger.

Hollinger discloses the invention substantially as claimed including the upper portion being at least a quarter of an inch. In the alternative, it would have been obvious to one having ordinary skill in the art at the time the invention was made to making the upper portion  $\frac{1}{4}$  inch for the purpose of providing a safety razor with an improved cutting angle for specific areas of the user, because since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Moreover, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Furthermore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to make the upper portion  $\frac{1}{4}$  inch in length because Applicant has not disclosed that the specific distance provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either control angle because they both perform the function of facilitating the shaving operation. Therefore, it would have been an obvious matter of design choice to modify the modified device of Hollinger to obtain the invention as specified in claim 17.

As to claim 18, the modified device of Hollinger discloses the invention substantially as claimed except for the control angle being greater than ninety degrees.

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However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use a control angle of greater than ninety degrees for the purpose of providing a safety razor with an improved cutting angle for specific areas of the user, because since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Moreover, it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Furthermore, at the time the invention was made, it would have been an obvious matter of design choice to a person of ordinary skill in the art to use a control angle of greater than ninety degrees because Applicant has not disclosed that the control angle of greater than ninety degrees provides an advantage, is used for a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with either control angle because they both perform the function of facilitating the shaving operation. Therefore, it would have been an obvious matter of design choice to modify the modified device of Hollinger to obtain the invention as specified in claim 4. It should be noted that applicant's specification on page 7 clearly indicates that any angle could be used; therefore, there is no criticality to the specified angle.

15. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollinger as applied to claim 18 above, and further in view of Carreker.

Figure 1 of Hollinger shows the guide track for a typical replacement head portion of the cartridge type. However, in the alternative, Carreker discloses that it is old and

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well known in the art to use replaceable razor blades heads for the purpose of providing an economically razor blade. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made have replaceable head portions with the modified device of Hollinger in order to provide an economical razor blade.

16. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hollinger in view of Heinrich and White, U.S. Patent 4,719,063, or Holley, U.S. Patent 6,049,936, or Brody, U.S. Patent 4,523,781, or Beebe, U.S. Patent 4,283,808, and/or Gaide, U.S. Patent 2,367,571, or Lovasz, U.S. Patent 2,743,732, or Bosy et al., U.S. patent 6,598,303.

Hollinger discloses the invention substantially as claimed including a generally arcuate handle with means (the curved upper end) for improved manipulation. Hollinger lacks the shaving head being less than or equal to three-eighths of an inch wide; and the width of at least a portion of the handle being substantially larger than the width of the shaving head.

Heinrich discloses that is it old and well known in the art to use razor blades of reduced size such as less than or equal to  $\frac{3}{8}$  of an inch for the purpose of provided an improved razor with an enhanced cutting ability of specific small areas of the body. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a reduced razor blade size of less than or equal to  $\frac{3}{8}$  of an inch with the safety razor of Hollinger in order to provide an enhanced cutting razor for specific grooming.

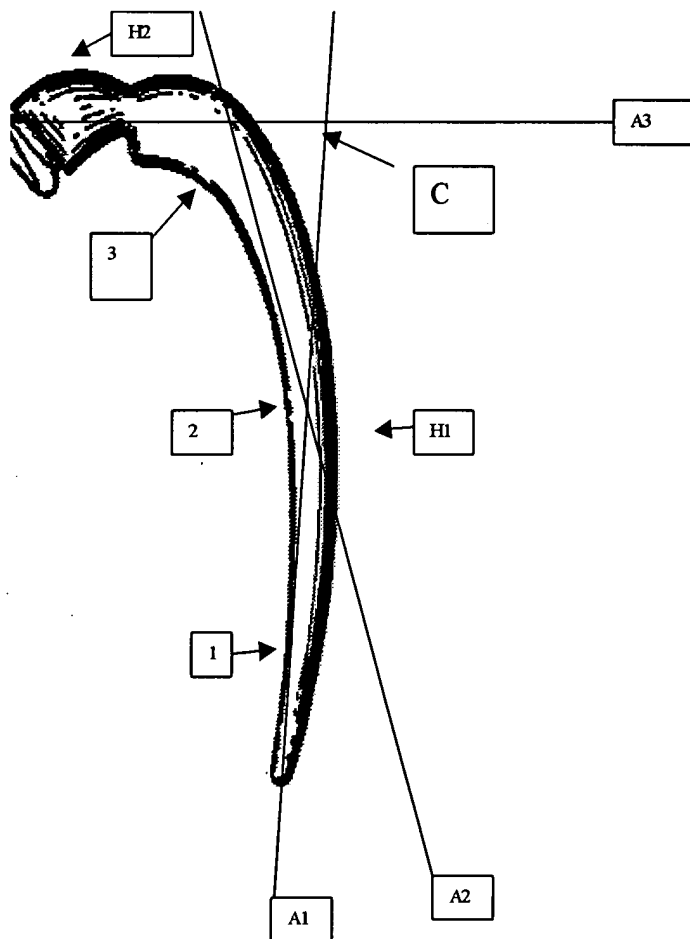
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White, Holley, Brody Beebe and Bosy et al. all disclose that it is old and well known in the art to use larger handles for existing smaller handles of manually gripped utensils/tools for the purpose of facilitating gripping of the tool/utensil by people with insufficient manual dexterity, for example, someone with arthritis. Moreover, Gaide discloses that it is old and well known in the art to use razors with handle portions that are larger than the combined width of a blade (11) and head portion (19/10) for the purpose of facilitating storage of extra blades. Likewise, Lovasz discloses that it is old and well known in the art to use razors with handle portions that are larger than the combined width of a blade and head portion (A) for the purpose of facilitating storage of a shaving aid.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to use a handle portion larger than the blade/head portion of a razor in order to facilitate storage of extra razor blades and shaving aids.

Even if it is argued that the modified device of Heinrich lacks the specific width of the razor handle being twice as wide of the combined width, it would have been an obvious matter of design choice to make the handle width twice as wide as the combined width for the purpose of facilitating storage and removal of multiple blades and/or sufficient amounts of shaving aid to reduce frequent refills as well as for facilitating a user's ability to grip the handle depending upon a user's hand size and/or dexterity, because such a modification would have involved a mere change in the size of a component.

Figure for Referencing in Rejections



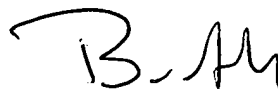
***Conclusion***

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Boyer D. Ashley whose telephone number is 571-272-4502. The examiner can normally be reached on Monday-Thursday 7:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on 571-272-4514. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Boyer D. Ashley  
Primary Examiner  
Art Unit 3724